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Date of Deposit: March 18, 2004

Our Case No.: 6298/453

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

J. Grychowski et al.

Serial No.: To be Assigned

Filing Date: Herewith

For: NEBULIZER APPARATUS AND  
METHOD

Examiner: Unknown

Group Art Unit No.: 3761

**INFORMATION DISCLOSURE STATEMENT**

Commissioner for Patents  
Alexandria, VA 22313-1450

Dear Sir:

In compliance with the duty of disclosure under 37 C.F.R. § 1.56, it is respectfully requested that this Information Disclosure Statement be entered and the documents listed below and on the attached Form PTO-1449 be considered by the Examiner and made of record.

The references now cited are the following:

**U.S. PATENTS**

<u>Patent No.</u>	<u>Date</u>	<u>Inventor</u>
2,535,844	12/1950	Emerson
3,467,092	09/1969	Bird et al.
3,580,249	05/1971	Kentaro Takaoka
3,584,621	06/1971	Bird et al.
3,630,196	12/1971	Bird et al.
3,658,059	04/1972	Emeram Steil
3,826,255	07/1974	Havstad et al.
3,838,686	10/1974	Szekely
3,874,379	04/1975	Enfield et al.
3,990,442	11/1976	Patneau
4,106,503	08/1978	Rosenthal et al.
4,116,387	09/1978	Kremer, Jr. et al.

<u>Patent No.</u>	<u>Date</u>	<u>Inventor</u>
4,251,033	02/1981	Rich et al.
4,268,460	05/1981	Boiarski et al.
4,333,450	06/1982	Lester
4,413,784	11/1983	Dea
4,470,412	09/11/84	Nowacki et al
4,588,129	05/1986	Shanks
4,620,670	11/1986	Hughes
4,674,491	06/1987	Brugger et al.
4,677,975	07/1987	Edgar et al.
4,746,067	05/1988	Svoboda
4,792,097	12/1988	Kremer, Jr. et al.
4,809,692	03/1989	Nowacki et al.
4,832,015	05/1989	Nowacki et al.
4,984,158	01/1991	Hillsman
5,020,530	06/1991	Miller
5,054,477	10/1991	Terada et al.
5,054,478	10/1991	Grychowski et al.
5,086,765	02/1992	Levine
5,165,392	11/1992	Small
5,167,506	12/1992	Kilis et al.
5,170,782	12/1992	Kocinski
5,241,954	09//1993	Glenn
5,277,175	01/1994	Riggs et al.
5,280,784	01/1994	Kohler
5,301,662	04/1994	Bagwell et al.
5,301,663	04/1994	Small, Jr.
5,309,900	05/1994	Knoch et al.
5,312,046	05/1994	Knoch et al.
5,318,015	06/1994	Mansson et al.
5,363,842	11/1994	Mishelevich et al.
5,398,714	03/1995	Price
5,458,136	10/1995	Jaser et al.
5,479,920	01/1996	Piper et al.
5,487,378	01/1996	Robertson et al.
5,505,192	04/1996	Samiotes et al.
5,505,193	04/1996	Ballini et al.
5,511,538	04/1996	Haber et al.
5,515,842	05/1996	Ramseyer et al.
5,520,166	05/1996	Ritson et al.
5,533,497	07/1996	Ryder
5,533,501	07/1996	Denyer
5,549,102	08/1996	Lintl et al.
5,570,682	11/1996	Johnson
5,584,285	12/1996	Salter et al.
5,613,489	03/1997	Miller et al.
5,617,844	04/1997	King

<u>Patent No.</u>	<u>Date</u>	<u>Inventor</u>
5,622,162	04/1997	Johansson et al.
5,630,409	05/1997	Bono et al.
5,687,912	11/1997	Denyer
5,792,057	08/1998	Rubsamen et al.
5,803,078	09/1998	Brauner
5,823,179	10/1998	Grychowski et al.
5,875,774	03/1999	Clementi et al.
6,033,841	04/2000	Verdun et al.
6,044,841	04/2000	Verdun et al.
6,116,233	09/2000	Denyer et al.
6,237,589	05/2001	Denyer et al.
6,450,163 B1	09/2002	Blacker et al.
6,612,303	09/2003	Grychowski et al.
6,644,304	11/2003	Grychowski et al.
US2002-0157663 A1	10/2002	Blacker et al.
US2003-0136399 A1	07/2003	Foley et al.

### **FOREIGN PATENT DOCUMENTS**

<u>Document No.</u>	<u>Date</u>	<u>Country</u>
675,524	07/1952	Great Britain
1 070 292	07/1954	France
93306974.2	03/1993	France
0587380	03/1994	Europe
EP 0 414 536 A2	02/27/91	Europe
EP 0 641 570 A1	03/1995	Europe
EP 0 711 609 A3	10/1996	Europe

### **OTHER ART**

Photographs of nebulizer manufactured by PARI GmbH with detachable gas flow interrupter believed to have been publicly available prior to February 13, 1996.

In accordance with 37 C.F.R. § 1.97(g),(h), this Information Disclosure Statement is not to be construed as a representation that a search has been made and is not to be construed to be an admission that the information cited is, or is considered to be, material to patentability as defined in 37 C.F.R. § 1.56(b).

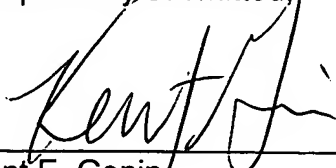
This Information Disclosure Statement is being filed prior to the receipt of the first Official Action reflecting an examination on the merits and hence is believed to be timely filed in accordance with 37 C.F.R. § 1.97(b). No fees are believed to be due in connection with filing of this Information Disclosure Statement, however, should any fees under 37 C.F.R. §§ 1.16 to 1.21 be deemed necessary for any reason relating to these material, the Commissioner is hereby authorized to deduct said fees from Brinks Hofer Gilson & Lione Deposit Account No. 23-1925. A duplicate copy of this document is enclosed.

This application relies upon the following prior cases for an earlier filing date under 35 U.S.C. §120: U.S. Application Serial No. 10/241,205, filed September 11, 2002; U.S. Application Serial No. 09/168,132, filed October 7, 1998; U.S. Application Serial No. 08/600,419, filed February 13, 1996. Additionally, this application is being filed after June 30, 2003. Accordingly, pursuant to 37 C.F.R. §1.98(d) and the waiver of the requirement under 37 C.F.R. §1.98(a)(2)(i) stated in 1276 OG 55, no copies of the documents cited on the attached PTO Form 1449 are enclosed because they have all either been previously cited or submitted to the Patent Office in the prior listed applications or are U.S. Patents or patent publications.

Applicant respectfully requests that the listed documents be made of record in the present case.

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Respectfully submitted,

  
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Attorney for Applicant

FORM PTO-1449	SERIAL NO. To be Assigned	CASE NO. 6298/453
LIST OF PATENTS AND PUBLICATIONS FOR APPLICANT'S INFORMATION DISCLOSURE STATEMENT	FILING DATE Herewith	GROUP ART UNIT 3761
(use several sheets if necessary)		APPLICANT(S): J. Grychowski et al.

**REFERENCE DESIGNATION**
**U.S. PATENT DOCUMENTS**

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS/ SUBCLASS	FILING DATE
	A1	2,535,844	12/1950	Emerson		
	A2	3,467,092	09/1969	Bird et al.		
	A3	3,580,249	05/1971	Kentaro Takaoka		
	A4	3,584,621	06/1971	Bird et al.		
	A5	3,630,196	12/1971	Bird et al.		
	A6	3,658,059	04/1972	Emeram Steil		
	A7	3,826,255	07/1974	Havstad et al.		
	A8	3,838,686	10/1974	Szekely		
	A9	3,874,379	04/1975	Enfield et al.		
	A10	3,990,442	11/1976	Patneau		
	A11	4,106,503	08/1978	Rosenthal et al.		
	A12	4,116,387	09/1978	Kremer, Jr. et al.		
	A13	4,251,033	02/1981	Rich et al.		
	A14	4,268,460	05/1981	Boiarski et al.		
	A15	4,333,450	06/1982	Lester		
	A16	4,413,784	11/1983	Dea		
	A17	4,470,412	09/1984	Nowacki et al.		
	A18	4,588,129	05/1986	Shanks		
	A19	4,620,670	11/1986	Hughes		
	A20	4,674,491	06/1987	Brugger et al.		
	A21	4,677,975	07/1987	Edgar et al.		
	A22	4,746,067	05/1988	Svoboda		
	A23	4,792,097	12/1988	Kremer, Jr. et al.		
	A24	4,809,692	03/1989	Nowacki et al.		
	A25	4,832,015	05/1989	Nowacki et al.		
	A26	4,984,158	01/1991	Hillsman		
	A27	5,020,530	06/1991	Miller		
	A28	5,054,477	10/1991	Terada et al.		
	A29	5,054,478	10/1991	Grychowski et al.		
	A30	5,086,765	02/1992	Levine		
	A31	5,165,392	11/1992	Small		
	A32	5,167,506	12/1992	Kilis et al.		
	A33	5,170,782	12/1992	Kocinski		
	A34	5,241,954	09/1993	Glenn		
	A35	5,277,175	01/1994	Riggs et al.		
	A36	5,280,784	01/1994	Kohler		
	A37	5,301,662	04/1994	Bagwell et al.		

EXAMINER	DATE CONSIDERED
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EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609; Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

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(use several sheets if necessary)	APPLICANT(S): J. Grychowski et al.	

**REFERENCE DESIGNATION U.S. PATENT DOCUMENTS**

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	NAME	CLASS/ SUBCLASS	FILING DATE
	A38	5,301,663	04/1994	Small, Jr.		
	A39	5,309,900	05/1994	Knoch et al.		
	A40	5,312,046	05/1994	Knoch et al.		
	A41	5,318,015	06/1994	Mansson et al.		
	A42	5,363,842	11/1994	Mishelevich et al.		
	A43	5,398,714	03/1995	Price		
	A44	5,458,136	10/1995	Jaser et al.		
	A45	5,479,920	01/1996	Piper et al.		
	A46	5,487,378	01/1996	Robertson et al.		
	A47	5,505,192	04/1996	Samiotes et al.		
	A48	5,505,193	04/1996	Ballini et al.		
	A49	5,511,538	04/1996	Haber et al.		
	A50	5,515,842	05/1996	Ramseyer et al.		
	A51	5,520,166	05/1996	Ritson et al.		
	A52	5,533,497	07/1996	Ryder		
	A53	5,533,501	07/1996	Denyer		
	A54	5,549,102	08/1996	Lintl et al.		
	A55	5,570,682	11/1996	Johnson		
	A56	5,584,285	12/1996	Salter et al.		
	A57	5,613,489	03/1997	Miller et al.		
	A58	5,617,844	04/1997	King		
	A59	5,622,162	04/1997	Johansson et al.		
	A60	5,630,409	05/1997	Bono et al.		
	A61	5,687,912	11/1997	Denyer		
	A62	5,792,057	08/1998	Rubsamen et al.		
	A63	5,803,078	09/1998	Brauner		
	A64	5,823,179	10/1998	Grychowski et al.		
	A65	5,875,774	03/1999	Clementi et al.		
	A66	6,033,841	04/2000	Verdun et al.		
	A67	6,044,841	04/2000	Verdun et al.		
	A68	6,116,233	09/2000	Denyer et al.		
	A69	6,237,589	05/2001	Denyer et al.		
	A70	6,450,163 B1	09/2002	Blacker et al.		
	A71	6,612,303	09/2003	Grychowski et al.		
	A72	6,644,304	11/2003	Grychowski et al.		
	A73	US2002-0157663 A1	10/2002	Blacker et al.		
	A74	US2003-0136399 A1	07/2003	Foley et al.		

**FOREIGN PATENT DOCUMENTS**

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS/ SUBCLASS	TRANSLATION YES NO
EXAMINER			DATE CONSIDERED			

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## FOREIGN PATENT DOCUMENTS

EXAMINER INITIAL		DOCUMENT NUMBER	DATE	COUNTRY	CLASS/ SUBCLASS	TRANSLATION YES	NO
	A75	675,524	07/1952	Great Britain			
	A76	1 070 292	07/1954	France			
	A77	93306974.2	03/1993	France			
	A78	0587380	03/1994	Europe			
	A79	EP 0 414 536 A2	02/27/91	Europe			
	A80	EP 0 641 570 A1	03/1995	Europe			
	A81	EP 0 711 609 A3	10/1996	Europe			

EXAMINER INITIAL	OTHER ART (Including Author, Title, Date, Pertinent Pages, etc.)	
	A82	Photographs of nebulizer manufactured by PARI GmbH with detachable gas flow interrupter believed to have been publicly available prior to February 13, 1996.

EXAMINER	DATE CONSIDERED
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